

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Case No. 12-cv-05343-TEH

STEVEN DALE PERCELLE,
Plaintiff,
v.
STEVEN PEARSON, et al.,
Defendants.

**ORDER RE: TESTIMONY OF BILL
JORDAN, STEVEN MAUGHMER,
JULIENNE STENNER, JENNIFER
NYGAARD, AND CUSTODIAN OF
RECORDS FOR SANTA CLARA
HOSPITAL SYSTEM**

At the November 28, 2016 pretrial conference hearing, this Court heard oral argument on Defendants' objections to a number of Plaintiff's proposed trial witnesses. On November 30, 2016, the Court received a list of questions that Plaintiff's counsel intends to ask these witnesses should he decide to call them at trial. Having carefully considered the parties' written and oral arguments, the Court overrules Defendants' objections and rules the witnesses' testimony admissible with the exceptions listed below.

Bill Jordan is a CDCR-designated witness who will provide testimony on prison procedures. Defendants object to his testimony as irrelevant and cumulative. Defendants' objections are hereby overruled. The proposed testimony is relevant to Plaintiff's First Amendment retaliation claim, except portions concerning a plan to reduce the number of inmates housed in administrative segregation.

Steven Maughmer is a correctional officer supervisor who played a limited role in validating Plaintiff as a gang member. Defendants object to his testimony as irrelevant and cumulative. Defendants' objections are hereby overruled. The Court finds that Mr. Maughmer's proposed testimony is relevant and its probative value is not substantially outweighed by a danger of presenting cumulative evidence.

Julienne Stenner is a former CDCR librarian who will testify about her knowledge of Plaintiff as a regular library user. Defendants object to her testimony as irrelevant and

1 cumulative. Defendants' objections are hereby overruled. The Court finds that Ms.
2 Stenner's proposed testimony is relevant and its probative value is not substantially
3 outweighed by a danger of presenting cumulative evidence.

4 Jennifer Nygaard is an Assistant Attorney General who testify about notices to
5 CDCR and to Defendants regarding Plaintiff's negligent medical care lawsuit. Defendants
6 object to her testimony as irrelevant and cumulative. Defendants' objections are hereby
7 overruled. The Court finds that Ms. Stenner's proposed testimony is relevant and its
8 probative value is not substantially outweighed by a danger of presenting cumulative
9 evidence.

10 Lastly, the Court overrules Defendants' objection to the recently disclosed medical
11 records from Santa Clara Health and Hospital System. As stated in the October 31, 2016
12 Order on Pretrial Motions, evidence of Plaintiff's mental health treatment received since
13 July 20, 2015 is relevant to damages. These medical records will be admitted at trial, along
14 with earlier documents that Defendants already stipulated to. A custodian of records is not
15 needed for authentication purposes and will not be allowed to testify at trial.

16
17
18
19
20 **IT IS SO ORDERED.**

21
22 Dated: 12/01/16



THELTON E. HENDERSON
United States District Judge